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OFFICE OF PETITIONS

In re Application of :
Peter Macleod : DECISION ON APPLICATION
Application No. 09/653,052 : FOR
Filed: September 1, 2000 : PATENT TERM ADJUSTMENT
Atty Docket No. 07844-356001 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed September 18, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred twenty-six (826) days to eight hundred sixty-five (865) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is eight hundred sixty-five (**865**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 23, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 826 days. On September 18, 2006, applicant timely submitted the instant application for patent term adjustment¹. Applicant disputes the reduction of 19 days associated with the filing of a response to the non-final Office action mailed May 6, 2004 on August 25, 2004. Applicant asserts that their response was filed by Express Mail (pursuant to

¹ PALM records indicate that the Issue Payment was also filed on September 18, 2006.

§1.10) on August 5, 2004, and thus, there was no applicant delay (pursuant to § 1.704(b)). Further, applicant asserts that, given that the response was actually filed on August 5, 2004, a period of adjustment of 40 days (not 20 days) pursuant to §§ 1.702(a)(2) and 1.703(a)(2) should be entered for the Office taking until January 14, 2005 to respond with the mailing of a non-final Office action.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

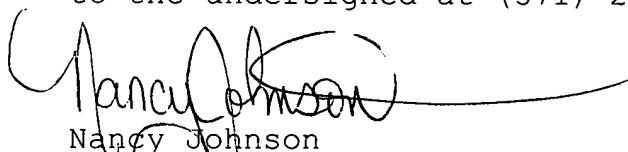
Applicant is correct. The response is considered received on August 5, 2004. Further, applicant's characterization of the basis for and amounts of the corrections to the adjustments and reductions of patent term in this application given the filing of the response on August 5, 2004 is correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 865 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 11/20/2006

PALM INTRANET

Time: 19:08:11

PTA Calculations for Application: 09/653052

Application Filing Date:	09/01/2000	PTO Delay (PTO):	937
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	865
PTO Delay Adjustment:	39		

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40	06/21/2006	ISSUE REVISION COMPLETED			
39	06/12/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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